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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,250	05/02/2001	Mark A. Kampe	80168-0103-P5087	6559
32658	7590	05/12/2005	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEEN ST. DENVER, CO 80202			BARQADLE, YASIN M	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

<b>Application No.</b> 09/846,250	<b>Applicant(s)</b> KAMPE ET AL.
<b>Examiner</b> Yasin M. Barqadle	<b>Art Unit</b> 2153

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 03 November 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____<br>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)<br>6) <input type="checkbox"/> Other: _____ |
|--|--|

**Response to Amendment**

Applicant's arguments filed on November 3, 2004 have been considered and are not deemed to be persuasive.

1. Claims 1-19 are presented for examination..

**Response to Amendment**

In response to Applicant's arguments in page 9, last paragraph that Connelly "teaches a system for sharing and maintaining availability data in a clustered server system not providing real-time cluster configuration data". Examiner contends that the recitation of providing real-time cluster configuration data has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). However, Connelly's system teaches real-time monitoring and error detection for

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enterprise cluster system that include configuration changes in each node col. 8, lines 22-32.

In response to Applicant's arguments in page 10, first paragraph that Connally "fails to teach the claimed repository managers" Examiner contends that Connally teaches this limitation. Primary repository manager (HA 20 b) and Secondary repository manager (HA 20c) [configuration changes are monitored. Cluster nodes are able to backup each other (including configuration changes i.e. tables 2 and 3) and events are shared col. 5, lines 12-34 and col. 6, lines 23-38]

In response to Applicant's arguments in page 9, last paragraph that Connally provides no teaching of choosing a primary and secondary node within a cluster each having a repository manager. Examiner contends that Connally teaches cluster system with a primary and secondary node each having a repository manager that is selected for tracking and monitoring col. 6, lines 23-38 and col. 11, lines 17-34].

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Connelly et al USPN (6594786).

As per claim 1, Connelly et al teach a system for providing real-time cluster configuration data within a clustered computer network comprising a plurality of clusters (fig. 1 and col. 8, lines 22-31), comprising:

a primary node (node 1) in each cluster (cluster C, fig. 1) wherein said primary node includes a primary repository manager (HA 20b) and a primary data repository (storage 8), the primary repository storing a first set of cluster configuration data in

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the primary data repository [clusters share work and are able to backup each other (including configuration changes) col. 5, lines 12-34 and col. 6, lines 23-38];

a secondary node (node 2) in each cluster wherein said secondary node includes a Secondary repository manager (HA 20c) and a secondary data repository (storage 10), the secondary repository manager storing a second set of cluster configuration data in the secondary data repository [clusters share work and are able to backup each other (including configuration changes i.e. tables 2 and 3) col. 5, lines 12-34 and col. 6, lines 23-38]; and

wherein said secondary repository manager cooperates with said primary repository manager to maintain the second set of cluster configuration data at said secondary node consistent with the first set of cluster configuration data maintained at said primary node [availability data is stored on both monitored systems and data is synchronized to all (e.g., servers 2, 4, and 6) and the HA Server 22. See col. 5, lines 36-47 and col. 7, lines 16-19. see also col. 10, lines 44-50 and col.11, lines 17-34 where configuration data are received from each HA].

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As per claim 2, Connelly et al teach the system of claim 1, wherein said primary node further comprises primary services (event monitoring service 40) [col. 8, lines 13-37].

As per claim 3, Connelly et al teach the system of claim 2, wherein said secondary services provide functionality of the primary services (clusters share work and are able to backup each other (including configuration changes i.e. tables 2 and 3) col. 5, lines 12-34; col. 6, lines 23-38 and col. 8, lines 13-37].

As per claim 4, Connelly et al teach the system of claim 1, further comprising:

at least one additional node in at least one cluster wherein said additional node includes a repository agent [fig. 2 and 3 col. 6, lines 39-51 and col. 8, lines 22-40].

As per claim 5, Connelly et al teach the system of claim 4, wherein said repository agent forwards all write/update requests to said primary repository manager [col. 7, lines 7-15 and 8, lines 22-45].

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As per claim 6, Connelly et al teach the system of claim 4, wherein said repository agent includes a software cache of repository data, wherein said repository data may be quickly accessed by an application [col. 6, lines 39-59].

As per claim 7, Connelly et al teach the system of claim 1, wherein said primary repository manager manages the storage of repository data comprising the first set of cluster configuration data on a first computer-readable medium, the maintenance of repository data on memory, and the synchronization of repository updates [tables 2 and 3 contain configuration data monitored in each node col. 5, lines 12-34 and col. 6, lines 23-38 and col. 9, lines 38 to col. 10, line 26].

As per claim 8, Connelly et al teach the system of claim 7 wherein said secondary repository manager manages the storage of repository data on a second computer-readable medium, and the maintenance of repository data on memory [col. 9, lines 38 to col. 10, line 26].

As per claim 9, Connelly et al teach the system of claim 8 wherein the repository data in said secondary node is synchronously up-dated so as to remain consistent with the

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repository data of said first node [availability data is stored on both monitored systems (e.g., servers 2, 4, and 6) and the HA Server 22. See col. 7, lines 16-19 and col. 9, lines 38 to col. 10, line 26].

As per claim 10, Connelly et al teach the system of claim 8 wherein said first and second computer-readable mediums each include a disc [see fig. 1, storage 8 and 10].

As per claim 11, Connelly et al teach a method of providing real-time cluster configuration data within a clustered computer network comprising a plurality of clusters (fig. 1 and abstract), comprising the steps of:

choosing a primary node (node 1) in each cluster wherein said primary node includes a primary repository manager (HA 20b) [nodes are tracked and could be chosen for removal col. 6, lines 23-38 and col. 11, lines 17-34];

choosing a secondary node (node 2) in each cluster wherein said secondary node includes a secondary repository manager (HA 20c) [nodes are tracked and could be chosen for removal col. 6, lines 23-38]; and

causing said secondary repository manager to cooperate with said primary repository manager to maintain information

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comprising secondary cluster configuration data at said secondary node consistent with information primary cluster configuration data maintained at said primary node [availability data is stored on both monitored systems and data is synchronized to all (e.g., servers 2, 4, and 6) and the HA Server 22. See col. 5, lines 36-47 and col. 7, lines 16-19. see also col. 10, lines 44-50 and col. 11, lines 17-34 where configuration data are received from each HA].

As per claim 12, Connelly et al teach the method of claim 11, comprising the further step of:

providing a repository agent for each additional mode of each cluster, wherein the repository agent interfaces with the primary repository manager in its cluster [fig. 3 and col. 8, lines 13-37].

As per claim 13, Connelly et al teach the method of claim 11, comprising the further steps of:

sending write/update information from a client only to said primary repository manager [col. 9, lines 38 to col. 10, line 26];

causing said write/update information to be written by said primary repository manager and said secondary repository manager in said primary and secondary cluster configuration data,

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respectively [disk mirroring and RAID technology are used col. 5, lines 12-34 col. 9, lines 38 to col. 10, line 26]; and validating completion of the entry of said write/update information only when the information successfully is written in both said primary repository manager and said secondary repository manager [col. 5, lines 36-47 and col. 15, lines 48 to col., line 10].

As per claim 14, this is a computer program product claim with similar limitations as claim 11 above. Therefore, it is rejected with the same rationale.

As per claim 15, Connelly et al teach a computer program product of claim 14, wherein the computer program product is adapted when run on a computer to effect the further steps of:

providing a repository agent for each additional node of each cluster, wherein the repository agent interfaces with the primary repository manager in its cluster [fig. 3 and col. 8, lines 13-37].

As per claim 16, Connelly et al teach the computer program product of claim 14, comprising the further steps of:

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sending write/update information from a client only to said primary repository manager [col. 9, lines 38 to col. 10, line 26];

causing said write/update information to be written in said primary repository manager and said secondary repository manager in said primary and secondary cluster configuration data, respectively [disk mirroring and RAID technology are used col. 5, lines 12-34 col. 9, lines 38 to col. 10, line 26]; and

validating completion of the entry of said write/update information only when the information successfully is written in both said primary repository manager and said secondary repository manager [col. 5, lines 36-47 and col. 15, lines 48 to col., line 10]

As per claim 17, this is a computer program product means claim with similar limitations as claim 11 and 14 above. Therefore, it is rejected with the same rationale.

As per claim 18, Connelly et al teach the computer program product of claim 17, further comprising:

means for providing a repository agent for each additional mode of each cluster, wherein the repository agent interfaces with the primary repository manager in its cluster [fig. 3 and col. 8, lines 13-37].

As per claim 19, Connelly et al teach the computer program product of claim 17, further comprising:

means for sending write/update information from a client only to said primary repository manager [col. 9, lines 38 to col. 10, line 26];

means for causing said write/update information to be written in said primary repository manager and said secondary repository manager in said primary and secondary cluster configuration data, respectively [disk mirroring and RAID technology are used col. 5, lines 12-34 col. 9, lines 38 to col. 10, line 26]; and

means for validating completion of the entry of said write/update information only when the information successfully is written in both said primary repository manager and said secondary repository manager [col. 5, lines 36-47 and col. 15, lines 48 to col., line 10].

#### Conclusion

1. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Yasin Barqadle

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Dung C. Dinh  
Primary Examiner